Preserve
B3C
10-9-59 - Jag 1-42

App. F. IX-4

Previous References

Lb 81-00 & 55, 7, 20
Lab 31-00 & 60-65

Letter References.

1935
(Lb)

File No. 53-35
Serial Nos. 1-6

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Six

Part B for Dec 35

SUBJECT

Petition of certain boatmen & residents of Zikhali re the sale of the right of the ferry across Shunga river between Zikhali-Kumalli Government Rest House

5 Ref 3741 of 20/11/35. As the Shunga State must the DBO cannot appropriate to itself the right to start and control the ferry, in order and lease it out

6 Ref 3945 of 28.11.35. As this Department must state that the DBO can exercise no jurisdiction over the river

VD 03607—GPH—22,500—2-8-35

From

The Deputy Comr., Shimoga. D

no M3 C 327/35-36 Dy 7.

In connection with the

~~petition~~ action of the District B
Shimoga District in having ~~ord~~ to
of ferry across the Thunga a
Kumsalli, brings to the notice
Govt the petition of the Amsijars
concerned and the resolution of
Kumsakalli panchayat and
That he would submit a detailed
report in the matter of the clai
put forward by the Amsijars:

1 The D.C does not Spe
raise any point for orders. A Pet
His further report promised may
awaited.

2 The contention of the K
Panchayat may not also be take
into consideration at this stage
If the local Amsijars establi
their claim, then the mutt's c
for the ferry will perhaps automatic
disappear.

3 For orders.

4 What

NOTE—Contn. Sheet.

Jras
18/1/37 MM/1017

Power
claim of the DLBd to sell the right by auction?
Is the action taken by the DLBd in order having
regard to the provisions of the DLBds Regn & the bylaws
approved in Govt no L 1082 dt 12-8-31 ?

Asst
11/7

238
13.7.35

5 The ferry in question does not
appear to be one either established
duly by the Distt Board by virtue
of the power vested in them under sec
53 (1) of the Regulation or one a public ferry whose
management has been entrusted to the
District Board, as contemplated under
Secs 45 (1) (g) of the Regulation.
Merely because the Distt Board
wanted to improve their resources, they
cannot straightaway ignore the
private or prescriptive rights enjoyed by
temples or mutts or individuals and assume
control over ferries which they have neither
established nor the management of which
has been transferred to them. In this
view the action of the Distt Board
cannot be considered to be in order.
6 The Law Section may be consulted.

such does not appear to be the case in this instance

It is also doubtful if the Spirit of the Bylaw that the Board envisages DLBd contracts may apply the boat till the local authorities substantiate their claim is correct.

Asst
12/7/35

For orders

Dewdney
12/7

Asst
12/7

7 The Law section might be consulted

HHV 13.7.35 AV 13.7.

326/p 35

134/L&G

2

General and Revenue Secretariat. | File No. | of 193 | [App. F. III-2

Both Br. with compliments.

MV 18/7

Law

MV 18/7

9 Under sec 4(1) of the Dt Bd Regn, the area included in a Mly or under the authority of a sanitary board, are excluded from the jurisdiction of the Dt. Bd. The area between Honkahalli and Kunvalli are said to be within the Honkahalli Mly. If this is correct the Shimoga Dt Bd cannot exercise their rights for the management of ferry across the Tunga river near Kunvalli

TSD 17/7. 10 If the area in question is one over which the Dt Bd has no jurisdiction, neither Sec 45 nor secs 53 or 54 apply to this case — The action of the Dt Bd in interfering with private rights especially on lands outside its jurisdiction cannot be supported —

Asst Secy Legl } MM
with compts } 17.7.35

9/Law

389/19.7.35

Dep Secy) Asst 18/7

1/ Draft acceptt MM 19.7. Asst 19/7

NOTE—Contn. Sheet.

134 134

File No. of 1935-36 General and Revenue Secretariat

Subd with a draft letter for approval

24/7/35

516
24.7.35

Dewdney 24/7

13

Secretariat

OFFICE OF THE SECOND MEMBER OF COUNCIL
25 JULY 1935
No 660

A pet^n was presented to me to day by Mr Nalan Subbadeo on behalf of the boat men. Please have this also examined before issue of final orders

27/7

Please note on the points raised in the pet^n

The petitioners Contend that they have been in the long & continued enjoyment of the right of ferry in question by their family & in support of this they have not been able to produce any Sanad which they say they lost in the floods of 1924 But they have produced copies of Inam Registers sheets, in which Navikas or Ambiga Service Inams have

been recognised and granted to them in consideration of the ferry services the petitioners' ancestors were doing in the River at Muttrahalli. The petitioners say that they are the descendants of the Ambigars referred to in the Inam register sheets.

The point for consideration is whether in the past the receipts from such ferries were allowed to be enjoyed as rights appertaining to temples or matts or individuals and whether the hereditary nature of this Ambiga service was recognized... The G.Os of 1875 & 1880 put up below have a bearing on this point and they indicate that such prescriptive rights were enjoyed & recognized.

A

The G.O of 19th May 1880 is pertinent to the case, as, in that case the order was passed on an appeal petition presented by one Narya Ayi & other Ferrymen in the Nyanar District that G.O though passed 55 years ago still holds good in important respects. It was with a view to recognize the existence of such ferris that in such cases the Dist Boards' regulation contemplates

NOTE—Contn. Sheet.

the taking away a license and (vide section 54 (2) of the Dist Bds Regn) considered from this aspect, the action of the Distt Board in having taken over the working of the ferry in question and fixed it instead of insisting upon a license being taken out, as required by law is highhanded & arbitrary. It is therefore for orders if a show cause order may be issued to the Distt Board and a report called for from the D.C on the above petition.

[The point that it is only the Mathadhi that is competent to sell the ferry need not be stressed much as it does not appear quite relevant to the case. Further the territorial jurisdiction over a river belongs entirely to the State and so either the Mathadhi or the Distt Board. The word ferry is not mentioned in the Melvaram sale.]

for 31/7/35

19 The petn's main contention is that Jiyarkhatti is a Devadaya inam of Sri Rameshwaram Swamy temple at the place and that in petition for stipulated services thereby the right of the enjoyment of the ferry rights for in hereditary succession has been imposed upon him as the temple of Sri Rameswaram Swamy Devasthanam. It is a muzrai institution, the matter is perhaps one for

investigation in the Mez Branch.

MM 30/4/35 20 A report from the D/Com on the petition seem necessary before orders can be passed in the matter

21 As regards the Stay order asked for in the last para of the petn, the question is whether the execution of the order of the DTBD may be stayed, or whether the arrangement made by the DTBD may be allowed to be continued as proposed by the D/Com in the penultimate para of his letter, subject to the condition that in case the decision in the case is favorable to the local ambitions the DTBD should pay the realisations from the ferry to them

22 Reject - para 14

Dev Dey) 30/7

~~Delayed~~

23 An order might issue that the Dist Board suspend their activities pending the matter wholly arising in Manori until the petn is finally decided the meanwhile the D.C. might submit a report on the petition

MM 1/8

1/8

NOTE—Contn. Sheet.

24 Yes on the ground that the question is whether the Dist Board area should be decided

JDT 2/8

MM 2.8 Please publish draft

5.15Sh 697 31.7.35

OFFICE OF THE SECOND MEMBER OF COUNCIL. 2 AUG. 1935 No. 925

134 / 134

L/B File No. of 1935-36 General and Revenue Secretariat

Subd with a draft letter to the D.C Shimoga Dist.

760
5/8/35

Para 2 of the draft does not mention the ground for the stay order mentioned in the Members minute. If this is intended to be mentioned, an addition may be made in the draft.

Dev Secy) 5/8

Issue 7/8/35

To

The D.C. Shimoga District.

No L 1118 Dt 7.8.35

Re the petition for a report & stay order

6. AUG. 1935 GENL & REV. SECTT.

Submitted with a draft reminder as requested to instructions.

DVG 22/8/35

To

The DC Shimoga Dt. Do. No 13 dated 22/8/35 requesting to expedite the report called for in Serial (2) above

Please send weekly reminders till report is received

Petition of Subjas re Ferry at Kunnalli
G.W. 2 V 9 W 5

General and Revenue Secretariat. LB File No. 53 of 1935-36 [App. F. III-2

From the President, Dt. Bd. Shimoga
no C 334/LB 34:35 Dt 21.8.35
Requests that a notice may be issued to the Subjas at Kunnalli to prove their title to the ferry within a specified time. That the Dt. Board may be heard before passing final orders on the report of enquiry on their petition.

D.O. letter No 113 dated 26.8.35 from the Dc. Shimoga stating that he sends a final reply in the matter in the course of this week. Since rec'd

1242
27/8/35

Submitted for perusal. The receipt of the report called for from the Dc (to whom a reminder may issued) will, if approved, be awaited. He has promised to send it in the course of this week (vide D.O. letter extract in the margin)

from 27/8/35 MV 27/8

DyCSecy 27/8

32 MW 28.8.

33 The promised report has not yet been received. Orders.

from 28/8/35

Tdb 3/9/35

from 3/9/35

from the D.C. Shimoga Dist
no mis C 32-1 Dt 2.9.35
35-36
submits the detailed report

NOTE—Contn. Sheet.

Petition of Ambrizes - Kirimwalli 1875 - 235 -

Protected

187

53

KB File No. of 1935 - 36 General and Revenue Secretariat

the matter

34 The report is for perusal

35 The Director of Land Records (Superintendent of Town settlements) may perhaps be addressed in regard to para 2 of the D.C's letter. A

Refer paras 2 & 4 supra 14335 579/35

a/a 579/35

A - This is for orders.

The Dycan has supported that, in case it be held that the DBD have no jurisdiction, the question may be left to the Municipal Council for decision. But the claim of the Ambrizes has perhaps to be decided by Govt.

It will be seen from the last para of the DBD President's letter dt 6/7/35 to the Dycan, Shemoga, that effect is not given to the order of Govt directing the suspension of the Board's order for the pulling of the boat through the Contractor's Dewdrop) 579

H This is a/c this & our earlier letter MW.

The following further communication has been received today:- From the Dycan Shemoga No 73 D13 30/5/36 Forwards copy of the Shemoga DBD President's letter enclosing a copy of the notice issued by him to the Contractors of the Board threatening to take action in case this rights under the Contract are not observed & him

The Dy Com reports that the river is within the limits of the road which is being maintained by the DBD & that the Dist Board have no jurisdiction. The Board must be informed that their claim is ill-founded.

Please consult the Law Secretary. 7.9. Am 7/9.

Law Secretary) 7/9 the above 12/9 MW 17/9.

Law urgent 10/9

SECOND MEMBER OF HOUSE 10 SEPT. 1935 NO

1875/35

Petition of Ambigars - Kerwalli

108/1875

6.

General and Revenue Secretariat. File No. 553 of 1935-31 [App. F. III-2

Refce para 5 to Supra.

The DC reports that the portion of the stream within which the boats are plied is within the Mll limits, and that the road leading to the river on both sides of the banks is also being maintained by the Mlly. As already pointed out the Dr. Bd has no jurisdiction over this area and Consequently no action taken to petition the right of ferry seems illegal and ultra vires.

G.O.No.P 49235 dated 20th September 1935

Doo 302/35-8[illegible]
dy 20.9.35

TSD 19/9 Forwarded with Compliments to the Govt advocate for favour of opinion.

[illegible]
for Secy 20/9/35

Doo No. D.1-1/35-36
dy 11.10.35

Returned with compliments.

This case raises a question of some nicety as neither the Municipal Regulation nor the District Boards Regulation makes any explicit reference to the matter now under consideration

It is undisputed that the area through which the river flows was within the limits of Paduvanahalli which was an Inam village belonging to Sri Rameswara Devaru Temple at Thirthahalli. The Inam village was purchased by the Municipality and it therefore now belongs to the Thirthahalli Municipality.

The Amildar

GENERAL SECT. 12 NOV 35 D

NOTE—Contn. Sheet.

The Amildar is of opinion that the Ambigars were running the ferry having temple service inams and performing certain duties in the temple - during the Rathotsavam and other occasions. If that is so the claims they have put forward may have to be decided later.

There are two provisions in the Municipal Regulation which throw some light on the matter. Section 50 Clause 2(b) vests all public streams etc., not specially reserved by Government in the Municipality, and whether this portion is reserved by Government is a matter which may be kindly ascertained. Section 61(2) empowers the Municipality to levy taxes on boats as well. On the other hand Section 54 Clause 2 of the District Boards Regulation only lays down, that no person shall newly open a market ..... public ferry or continue to keep open any such as may have been established prior to the commencement of this regulation, unless he obtains from the District Board a licence in writing to do so. If the ferry service was being run prior to this Regulation as can be gathered from the report of the Amildar, the District Board cannot claim the service, as Section 54(2) only forbids the running of the service without a licence from the District Board. Even if the rights of Ambigars are ignored, as Section 50 of the Municipal Regulation vests the river in the Municipality as pointed out above, to it would be entitled all rights over it and not the District Board.

I do not think that the District Board can, under these

these circumstances, appropriate,...to ~~thereof vest~~ start the right to start and control the ferry service or lease it out.

Government Advocate.

CSN/11.11.35

asst Secy d.S.G. with Compts

Dep Secy) Am 17/11

The Dist Board may be informed as at A. above

Secretariat

Dep Secy) Am 15/11

Draft letter to the D.C. Kurunegala is putup for approval

OFFICE OF THE SECOND MEMBER OF BOARD OF GOVERNORS 13 NOV. 1935 No. 3653

GENERAL SECTION 16 NOV. 1935 GENL

NOTE—Continued on Sheet.

1084/1087

L/S File No. 53 of 1935-36 General and Revenue Secretariat

The Deputy Comr Thimaya Distt
No L 3741 Dy 20 11 35
Returns the record stating
that the Distt Board cannot in
the circs stated therein appropriate
to itself the right to start and control
the ferry service in question or
lease it out
A draft endorsement is put up
for orders = no final orders have been
passed in the case on the appeal
from petition = no such is perhaps
9-9/11/35 NM/22/11 necessary at this stage and the position may
be considered if the pltrs.
press again in the matter

This is for orders
NM

NM/22/11

The draft put up for orders

Dev Secy

NM 22/11

3214
22/11

NM 25.11

Issue

Endorsement to messrs Thagriya Distt
Boards Thimaya Distt this Dist
Board
No L 3945 Dy 28/11/35
informing them that orders have been
passed that the Distt Bd can exercise
no jurisdiction over this ferry
To The D.C Thimaya Distt
No L 3946 Dy 28/11/35
Ds acknowledgt

NO. SECTION.
NOV. 1935
& REV. SECTT.

10811/2422 22 2 8

General and Revenue Secretariat LB File No. 53 of 193 5-36 [App. F. III—2

Serial No.	
6	From The President Distt Board Shimoga no C8/LB 35-36 Dy 12.11.35 Requests final orders of Govt re the petition of Subrajaya re Kumsi Ferry

Final orders have already issued in the matter No action is hereby called for

Subs for perusal

30/11/35

The President may be informed that the orders of Govt have been communicated to the Distt Shimoga, in this Office letter no L 3741 Dy 20/11/35

Dy Secy 30/11

34 28/30.11

AMW. 30.11.

30/11

Subs circ & draft letter

30/11/35

To...

Issue 30/11

The President Distt Board Shimoga no L 4957 Dy 2/6.12.35 States that orders of Govt have been communicated to the Distt Shimoga in this Office letter no L 3741/LB 53-35-4 Dy 20.11.35

GN. DEC. 1935 REV. SECTT.

NOTE.—Contn. Sheet.

WD 03591—GPB—30,000—13-7-35

B 9/12/35

No. M3. C. 32-1/35-36. Ep 3.

OFFICE OF THE DEPUTY COMMISSIONER,
SHIMOGA DISTRICT.

Dated Shimoga, 7th J u l y. *193* 5

FROM S. Narayana Rao,Esq.,M.A.,(Hons)
Deputy Commissioner,
Shimoga District.

LB 53-35-1.

To

M. Venkatanaranappa,Esq.,B.A.,

Secretary to Government,

Deevelopment Department,

B a n g a l o r e.

SIR,

Subject:-

Ferry at Kuruvalli (Thirthahalli Town) Right of auction by the Shimoga District Board.

***

I have the honour to state that one Holebovi Seshagiri Das having petitioned this office on 20-6-1935 representing that though the right to ply boats at the Ferry over the Tunga River near Kuruvalli included within the Muncipal limits of Thirthahalli had been granted to him as Inam the District Board contemplated selling the said right for the years 1935-36 to 1937-38 by auction to the detriment of his interests, the petition was forwarded to the President, District Board, for disposal.

2. The President, Shimoga District Board later on intimated in his letter No. C. 334/ L.B. 34-35 dated 1-7-1935 that the right of collecting fees at the Ferry of the Thunga River at Kuruvalli for the years 1935-36 to 37-38 had been sold by public auction by the District Board on 28-6-1935 to one Mr. S.Tejappa Setty, but that Oba and Venkata Das (the persons who were formerly plying the Ferry) had been unauthorisedly plying the boat in the river thereb causing loss to the Contractor and requested that as their action

was contrary to Section 56 (3) of the District Board Regulation and was punsihable thereunder, immediate orders might be issued from this office to the Police to put a stop to the unauthorised plying of boat by these two persons

3. The Muncipal Council of Thirthahalli, on the motion of Mr. Raghavendra Rao, Muncipal Councillor supported by Mr. Dakappa considered this subject at their meeting held on 29-6-35 and passed a resolution stating that as the River Thunga lay between Thirthahalli and Kuruvalli which were within the Muncipal area, the right to the Ferry vested with~~in~~ the Muncipal Council under Section 46 (b) Muncipal Regulation and the District Board had no manner of right over it, the President, District Board might be requested to cancel the sale already held

The President of the Muncipal Council in submitting the resolution of the Council has reported that this is the first time that the District Board have sold this right by public auction, that a representation given by the Muncipal Councillors stating that the District Board had no right to sell the right over the ferry had been sent to the President, District Board with his No. 351/ D. 25-6-1935 with a request that the sale proposed to be held on 28-6-1935 might not be conducted till the question was decided finally.

4. The President, District Board in making his request for Police help states that the action of the Ambigars is contrary to Section 56 (3) of the District Board Regulation and is punishable thereunder. He relies on Section 53 (1) and Section 54 (2) of the District Board Regulation for his action in auctioning the right of plying ferries. But if Section 53 (1) is read with 4 (1) of the District Board Regulation, it is

it is doubtful whether the District Board can exercise such a right in the area in question. Further if the Ambigars of Kuruvalli have as alleged by them been granted the right of plying ferries near Kuruvalli as Inam, their long enjoyed right cannot be lightly brushed aside. An enquiry will be held in regard to this and the respective rights of the Muncipality and the District Board over the ferry and I will submit a detailed report in the matter in due course. In the mean while as the District Board have already sold the right and its contract has already commenced to work, I have asked the Ambigars petitioners and the Muncipality to allow the present arrangement to continue pending final orders of Government in the matter and informed the District Board President that the Contractor of the Board should be allowed to ply the boats only after getting them duly certified by the Executive Engineer and other Officers as per condition 8 of District Board Notification No. C. 334/ L.B. 34-35 dated 10-4-1935 employing competent persons. The District Board Contractor had started plying on the ferry with boats that had not been passed by the Executive Engineer, Amildar and District Board President with the help of Boatsmen who were not of the locality. As the River was rising on account of the rains and complaints were received by me at Thirthahalli Camp, the Amildar was asked to see that uncertified boats were not plied and incompetent men were not employed. I write to the District Board President suggesting that he might ask his contractor not to ply his boats pending orders of Government but in view of Section 53 (1) and 54 (2) of the District Boards Regulation, it seems to me that the District Board Contractor may be allowed to ply till the local Ambigars substantiate their claims to ply on this ferry in which case the District Board will pay him the

amount realised by the sale of the ferry.

5. I enclose herewith a copy of the letter just received from the District Board President in reply to my letter, a copy of which also is enclosed. Copies of the Ambigar's petition and Muncipal President's letter also accompany.

I have the honour to be,
Sir,
Your most obedient servant,

Yn Kanlaya
for Deputy Commissioner
b Shimoga District
(absent from Station on tour)

4

Letter No. C. 334/ L.B. 34-35 dated 6th July 1935, from the President, District Board & Local Education Authority, Shimoga, to the Deputy Commissioner, Shimoga District, Shimoga.

*****

With reference to your letter No. M3. C. 32-1/35-36 dated 4th instant, re: the right of auction of Kuruvalli Ferry in Thirthahalli Taluk, I have the honour to state that the petition presented to you by the local Ambigars of Thirthahalli does not express real facts. The allegation No. 2 that the District Board has no power to sell the right of Ferry cannot be relied upon as it is quite contrary to the provision in the District Board Regulation. It is expressly provided in Section 54 (2) of the Regulation that no person shall continue to keep open any ferry as may have been established prior to the commencement of this Regulation (1926) unless he obtains from the District Board, a license in writing to do so. The allegation Nos. 3 to 7 in the petition that the petitioners have been enjoying the right of ferry from time immemorial etc, cannot at all be taken into consideration as the section clearly specifies that even such persons shall not continue to do so unless they obtain a license in writing from the District Board. They are bound to obtain the required license whatever they may allege to possess from time immemorial. Thus the Ambigars cannot dispute the right of the District Board to the ferry in question.

Next comes the question of Muncipality. The allegation of the Muncipality is that the District Board cannot sell the right to ply on the ferry as the River flows between Kuruvalli and Thirthahalli both of which are within Thirthahalli

Muncipal limits. For this they depend upon Section 46 (b) of the Muncipal Regulation of Minor Muncipalities- vide their resolution dated 29-6-1935. It ~~is~~ can be said that this Section is evidently not at all applicable to the levy of taxation. The River may lie in the Muncipal limits but the Regulation no where provides that the Muncipality can levy tax on ferry. In the absence of such a provision in the Regulation, the Muncipality cannot claim the right to ply on the ferry which is the exclusive right of the District Board under the Regulation. This is not the first time that the District Board claims the right to ferry in Muncipal limits. For instance the right to ferry in the limits of Honnali Muncipality was all along exercised by the District Board before the Bridge was constructed. Thus it can be safely said that the claim put forward by the Thirthahalli Muncipality cannot legally stand as it is not supported by the Muncipal Regulation.

As regards para 3 of the letter under reference, I may bring to your kind notice that the management of all ferries in the District has been entrusted to the District Board since the time of introduction of the Regulation. Section 54 (2) clears this point. But the right to collect fees over the ferry in question was some how not taken up by the District Board. In order to stabilize the financial condition of the District Board and to find ways and means for improving the sources of revenue a Special Committee was appointed and on their suggestions, the subject of auctioning such of the ferries as were unauthorisedly plied by private persons, was discussed in the District Board meeting held on 1-4-1935 and a copy of the resolution passed (viz No. 103 (b) (ii) is enclosed for kind perusal. Thus the Board has rightly and legally exercised their right.

12

As regards para 4, necessary instructions have been issued to the Sanitary Inspector, Thirthahalli, to see that the auction purchaser gets his boats certified by the Public Works Department as required by condition of the Bye-laws.

The sale has been properly conducted, the Contractor has duly executed the bond after depositing the required amount and has been authorised to ply his boats with effect from 1-7-35 I wish to bring to your kind notice that the Contractor will surely be put to loss if the previous unauthorised plying is continued to be allowed, and some one has to be held responsible for the loss. I regret to say that I cannot issue instructions to the sale purchaser not to ply his bpat, which will be contrary to the resolution of the Board.

" C o p y "

Yours faithfully

for Deputy Commissioner,

Sap Shimoga District.

13

Proceedings of the Adjourned Third Ordinary Meeting of the District Board and Local Education Authority, Shimoga, held on Monday the 1st April 1935, at 12 noon, in the District Board Office, Shimoga.

X X X X

Subject No. 103. (b) (ii) Ferries as noted below which are being plied by private ~~persons~~ parties without the sanction of Board may be auctioned and necessary action taken in the matter :-

Shimoga Taluk.

(1)	Urugadur	Thunga River.
(2)	Hosahalli	do.
(3)	Sakrebyle.	do.

Sorab Taluk.

(1)	Hosur.	Varada River.

Thirthahalli Taluk.

(1)	Kalur.	Hospet Hole.
(2)	Megarvalli	Kalmane Hole.
(3)	Kasaravalli.	Thunga River.
(4)	Bhimanakatte	do.
(5)	Mulabagalu.	do.
(6)	Bhadrajapur.	do.
(7)	Mahishi.	do.
(8)	Balagaru	do.
(9)	Kuruvalli.	do.

Nagar Taluk.

(1)	Ramachandrapur Mutt	Sharavati River.
(2)	Gigbiga	do.
(3)	Nadataruve	Kadase hole.
(4)	Koogri	do.

Information may also be collected from other taluks and steps may be taken to auction the ferries which are being plied by private ~~persons~~ parties in those places.

Resolution :- Approved.

x x x x

Sd/-. K.H.Halappa,
President,
District Board, Shimoga.

Extract."

" Copy "

Sd/-. K.H. Halappa,
President,
District Board, Shimoga.

Yenkanlanja
for Deputy Commissioner,
Sar Shimoga District.

4

BEFORE THE DEPUTY COMMISSIONER, SHIMOGA

Petitioners:- 1. Seshagiri Dasa.
son of Govinda Dasa.
Aged 35 years;
Bovi;
Thirthahalli.

2. Venkataramana,
son of Thammaiya,
Bovi;
Thirthahalli.

and others.

In continuation of their petition of date 19-6-1935, the petitioners above named beg to submit as follows :-

1. The District Board has not acted fairly in selling the right of auction without enquiring into the merits of the petitioners' petition of date 19-6-1935 which was referred to the President of the District Board for disposal.

2. The District Board has not power to sell the right of Ferry as the River flows within Muncipal limits and the Muncipality is the authority to sell the right of Ferry

3. The petitioners have been enjoying the right of Ferry from the time of their ancestors that is from time immemorial.

4. The Sannad or " ಸನದ " which the petitioners had, has been lost in the floods of 1924 and the fact of long and continued enjoyment can be ascertained from local enquiry.

5. The petitioners and their ancestors have been the hereditary servants of the Sree Rameshwara Temple and as a consideration for these services the right of Ferry across the River Thunga in Thirthahalli Town has been granted to the petitioners' family during the time of their ancestors.

6. The petitioners submit that the Temple ~~Dharmadarsis~~ Dharmadarsis and the Muncipal Council may be consulted along with the local authorities to find out if the statements made herein are not true

7. The petitioners have been earning their living by plying their boats across the River Thunga ever since the time of their ancestors and the petitioners would be deprived of their means of living by this sale of the right of Ferry by the District Board

The petitioners pray that the order of the District Board selling the right of ferry be cancelled and the petitioners be allowed to ply their boats as before

Sd/-. M.Subba Rao,
Advocate.

Sd/-

"Copy"

For Deputy Commissioner,
Shimoga District.

15

1935 నిబంధనలు ప్రకారం కొత్తవారు ఎన్నికలు జరిగి నూతన కార్యవర్గం
3 సంవత్సరాలు కాలపరిమితి కొరకు ఎన్నుకోవడం వల్ల ప్రస్తుత
కార్యవర్గం రద్దు అయినట్లు భావించి ప్రస్తుత ఆఫీస్ బేరర్స్
మరియు కార్యవర్గ సభ్యులు రాజీనామా చేస్తున్నారు

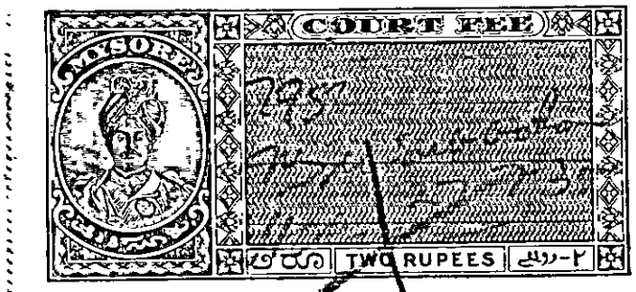
× × × × × × × ×

4. కొండూరి వెంకటేశ్వరరావు
మాజీ ఎం.ఎల్.ఏ గారిని
ఆహ్వానించి వారి
ఆధ్వర్యంలో
ఎన్నికలు నిర్వహించి
కొత్త కార్యవర్గం
ఎన్నుకోవడం
జరుగుతుంది.

Moved:— Mr. కొండూరి వెంకటేశ్వరరావు గారు

Seconded — Mr. కొత్తపల్లి సుబ్బారావు గారు

Resolution — పైన కొండూరి వెంకటేశ్వరరావు గారిని ఆహ్వానించి
వారి ఆధ్వర్యంలో ఎన్నికలు నిర్వహించి
కొత్త కార్యవర్గం ఎన్నుకోవడం
జరుగుతుంది — అని తీర్మానించడమైనది
ఈ తీర్మానం ఏకగ్రీవంగా ఆమోదించబడినది
అని ప్రకటించడమైనది — Regn 46(4)
ప్రకారం ఎన్నికల అధికారిగా
వ్యవహరించుటకు
ఎన్నికల అధికారిని
ఆహ్వానించడమైనది



BEFORE THE GOVERNMENT OF HIS HIGHNESS THE MAHARAJA

OF MYSORE, BANGALORE.

Mis. Apl. No. of 1935-36.

Appellants :- 1. K. SESHAGIRI DASA, son of Govindadasa, aged 35 years, Hole Bovi by Caste, Boatman, resident of Tirthahalli Town.

2. B. VENKATARAMANA, son of Thammiya, aged 30 years, Hole Bovi by Caste, Boatman, resident of Tirthahalli Town

3. B. SESHA, aged 32 years, HoleBovi by caste, Boatman, resident of Thirthahalli Town.

4. BOVI PUTTANNA, aged 65 years, Hole Bovi by caste, Boatman, resident of Thirthahalli Town.

The appellants abovenamed beg leave to sumit as follows :-

1. The petitioners are the boatmen who have been in the continuous enjoyment of the right of ferry across the River Thunga in Thirthahalli Town, till last month

2. The petitioners family have so enjoyed the right from the time of their ancestors

(3) By long and continued service as Boatmen in that locality the appellants are well aware of the condition of things in the river there during the floods and they have acquired special skill and aptitude , - which has enabled them to negotiate the traffic and the mails across the river even in high floods without the least inconvenience to the public or to the Authorities all these years.

(4) The petitioners may be pardoned for saying in this connection that boatmen unacquainted with the conditions of waters in the river find it hard and risky to take the boats across the river in the high floods One fourth of the Thirthahalli Taluk lies across the river and the public are being put to a lot of inconvenience for want of facility to cross the river in Tirthahalli Town since the District Board prohibited the petitioners from plying their boats across the river.

(5) The Shimoga District Board has for the first time this year sold the right of ferry across the river to a South Kanara Setty in derogation of the long established rights of the petitioners-and has prohibited the petitioners from plying their boats across the river

(6) The Shimoga District Board has not acted fairly in selling the right of ferry across the river Thunga in Tirthahalli Town without

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enquiring into the merits of the petitioners petition of date 19-6-1935 setting forth the petitioners claims which was referred to the President of the District Board ,Shimoga, for disposal by the Deputy Commissioner of the District.

(7). The District Board has no power to sell the right of ferry as the river Thunga flows within the Municipal limits of Tirthahalli and the Thirthahalli Municipality is the local Body which has territorial jurisdiction over the area. Thus it is the Tirthahalli Municipality which has jurisdiction to sell the right of ferry and not the District Board if it is found that the petitioners claim is not well founded and should not be upheld.

Last line of para 3 of DC's letter dt 2/9/35

(8). The petitioners family has been in enjoyment of this right of ferry for over 200 years and the sannad which the petitioners had was lost in the floods of 1924 when the petitioners lost all their home stead and movables in their houses. The fact of long and continued enjoyment of the right of ferry can be ascertained from local enquiry.

(9). The petitioners and their ancestors have been the hereditary servants of Sri Rameswara temple in Thirthahalli and as a consideration for their services the right of ferry across the River Thunga in Tirthahalli Town has been

-granted

granted to the petitioners' family during the time of their ancestors. The Village of - Thirthahalli and Kuruvalli between which the River Thunga flows in Thirthalli , are the Devadaya Inam Villages of Sri Rameswara Temple and Thirthahalli Municipality is only of recent growth. A share of the Municipal Revenues is being paid every year to the temple , thus recognising the over-lordship of the Deity on the area.

(10). The petitioners are the servants of the temple from the time of their ancestors and they are the persons who carry the Palanquin of the Deity and the temple honours( ) during Maharnavami, Karthikamasa, His Highness Birth-day, Rama Navami, Sivarathri, and the Yellu Amavasya Jatre , and during the last named jatra, the petitioners supply as many as sixteen men for a period of 8 days to get on with the varied works in connection with the car -festival. For all these services the Muzrai Temple Authorities pay the petitioners Rs 41-8-0 during Jatra and Rs 5/ for each of the other festivals . In consideration of the petitioners and their family doing the Deity's services for such nominal remuneration , the petitioners have been permitted to ply their boats across the river thunga in Thirthahalli Town.

(11). The petitioners who lived close to the river Thunga, lost their homestead and moveables in the floods of 1924 and even before they could recover from the effects of the calamity their main source

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source of living namely the right of ferry has been taken away from them by the President of the Shimoga District Board.

(12). Copies of Inam RegistereSheets Nos. 265 and 212 of Horabailu and Kodur Villages in Kowledroog (Thirthahalli)Taluk showing the grant of Service Inams to Navika Sanna and Ambiga Putta, the ancestors of the petitioners are herewith produced in support of the appellants title for favour of kind perusal. These service Inams were granted to the petitioners' ancestors in consideration of the ferry services the petitioners' ancestors were doing in the River at Thirthahalli.

(13). The petitioners submit that in the interest of the public also, it is not advisable to displace the petitioners, who are tried and experienced boatmen and bring in Novices with new boats which were not tried in the Thunga floods before.

(14). The appellants pray that in view of (i) the long and continued enjoyment of the right of ferry by the petitioners family, ii) the prima-facie title the petitioners have to be continued in enjoyment of the right, by reason of the grant of inam which can be seen from the certified copies produced herewith and (iii) the public convenience and human safety in allowing the old order of things to continue the Government may be pleased

pleased to set aside the sale of the right of ferry by the President of the District Board and allow the petitioners to enjoy their right of ferry as before

(15). Pending final orders, the Government may be pleased to order stay of the execution of the order of the Shimoga District Board President, prohibiting the petitioners from plying their boats.

Bangalore,
27/7/1935.

Malur Subba Rao
Advocate for the
Appellants.

Skeleton

MYSORE COURT FEE ೨ ರೂ TWO RUPEES ೨ ರೂ-೨

20

ವಕಾಲತ್ ನಾಮೆ

Before the Government of H.H. Maharajah ಗೆ.

ಸನ್ 19 —19 ನೇ ಇಸವಿ ನಂಬರು

ವಾದಿ (ಅರ್ಜಿದಾರ್.) ಪ್ರತಿವಾದಿ (ಎದುರರ್ಜಿದಾರ.)

Vs.

ಶಿವಮೊಗ್ಗದಲ್ಲಿರುವ ಅಡ್ವೊಕೇಟ್

ಮು|| ರಾ|| ಮಾಳೂರು ಸುಬ್ಬರಾಯರು, ಬಿ. ಎ., ಎಲ್. ಎಲ್. ಬಿ., ಇವರಿಗೆ

ಬರೆಸಿಕೊಟ್ಟ ವಕಾಲತ್ ನಾಮೂ.

ಈ ಮೊಖದ್ದಮೆಯಲ್ಲಿ ನನ್ನ ಪರವಾಗಿ ತಾವು ಕೋರ್ಟಿಗೆ ಹಾಜರಾಗಿ ಮೊಖದ್ದಮೆ ನಡೆಸುವುದಕ್ಕೂ ಅರ್ಜಿ ಪಗೈರೆ ಕೊಟ್ಟು ವಿವಾದಿಸಿ ಫೈಸಲ್ ಮೊಂಪತಕ್ಕ ಬಗ್ಗೂ, ಡಿಕ್ರಿ ಜಾರೀಕ್ರಮ ನಡೆಸತಕ್ಕ ಬಗ್ಗೂ, ದಸ್ತೈವಜು ಪಗೈರೆ ತೆಗೆದುಕೊಂಡು ರಸೀದಿ ಕೊಡುವುದಕ್ಕೂ, ಕೋರ್ಟಿನಿಂದ ಖರ್ಚಸಾಗತಕ್ಕ ದಾವಾ ಸ್ಟಾಂಪು, ಪ್ರೋಸೆಸ್ ಸ್ಟಾಂಪು, ಡಿಕ್ರೀ ಋಣ ಸುತ್ತು ಸಾಕ್ಷಿಭತ್ಯ ಇತ್ಯಾದಿ ಇತರ ವಿಧವಾದ ಎಲ್ಲಾ ಖರ್ಚಿಲಗು ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೂ ಸಹ ತಮಗೆ ಅಧಿಕಾರ ಕೊಟ್ಟಿರುತ್ತೇನೆ. ಇದ್ದರಿಂದ ಈ ಭಾಗದಲ್ಲಿ ತಾವೇ ಆಗಲಿ, ತಮಗೋಸ್ಕರ ಇನ್ಯಾವ ಲಾಯರೇ ಆಗಲಿ ನನಗೋಸ್ಕರ ಕೋರ್ಟಿಗೆ ಹಾಜರಾಗಿ ನಡೆಸುವ ಎಲ್ಲಾ ಕೆಲಸಗಳನ್ನೂ ನಾನು ಖುದ್ದು ಇದ್ದು ನಡೆಸಿದಂತೆ ಒಪ್ಪಲು ಇದರಿಂದ ಬದ್ಧನಾಗಿರುತ್ತೇನೆ.

ತಾ|| 29-7-1935. ರುಜು. ಸ್ವಹಸ್ತದ ಸಹಿ

ಬಿ. ಪೈಕ್ಯಾರ ಮಲ್ಲಿಕಪ್ಪನವರು

Accepted.

ಪ್ರಮುಖ್ ನಮಸ್ಕಾರ ಹಿಚ್ಚಿಕ್ಕಿ ನಂಜಪ್ಪನವರು

Advocate.

ಈ ವಕಾಲ್ತ್ನಾಮೆ ಕೊಟ್ಟವರು ನನಗೆ ಪರಿಚಯಸ್ಥರು, ನನ್ನ ಸಮಕ್ಷಮದಲ್ಲಿ ಇದಕ್ಕೆ ರುಜು ಮಾಡಿರುತ್ತಾರೆ.

ಶ್ರೀ ಗಂಗಾಧರ ಪೈಸ, ಶಿವಮೊಗ್ಗ

ಪಬ್ಲಿಕ್ ಆಫೀಸರ ಕಾರ್ಯನುಷ್ಠೋಗದ ನಿಮಿತ್ತ,

ಬಿ. ಪೈಕ್ಯಾರ ಮಲ್ಲಿಕಪ್ಪನವರು

Appendix F G—1]

SUBJECT 21

.....

.....

Section LB

File No. 53-35

Serial No. 2

Diary No. of letter replied to .....

No. L 1118 Two parts & its enclosures.

To

The Deputy Comr.

Shimoga Distt

General and Revenue Secretariat

( )

the *193*

Sir,

With reference

Date of issue 7-8-35

to your letter No

Signed by Asst

M3 C 32-1/35-36 dated

the 7th July 1935 bringing

to the notice of Govt

the action ~~taken by~~ of

the Distt Board, Shimoga

Distt, in having sold

the right of ferry between

List of enclosures .....

the Mutthenhalli and

Kuruvalli in spite of

Copied by ... 9-7-18

the protests of Amildars of

the places etc, I am

Examined by.....

directed to forward herewith
the original petition dated 27.7.35
presented by Mr Imdad Subhan,
Advocate, for the appellants
K. Seshagiri Das & Others of Vishakhapatnam
on the subject
Town and to request that
a detailed report on the
several points referred to therein
may be furnished to Govt very early.

2. In the meanwhile I
am to request that the District
Board may be asked to
suspend the plying of the
boat thro' the contractor
and to permit the boatmen (appellants)
to ply according to manoor,
till the question is finally
decided: 1. The question whether the ferry is plying
in the area or outside the area for the decision.

3 The petition and its enclosures
may kindly be returned along
with your report.

I have etc

Sec to Govt

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. L 1118 Enclosures. L353-35-2

Dated, Bangalore, 7th August *193*5

From

The *Secretary to the Government of His Highness the Maharaja of Mysore, Development Department.*

To

The Deputy Commissioner,

Shimoga District, Shimoga.

Sir,

With reference to your letter No.M3C.32-1/35-36 dated the 7th July 1935 bringing to the notice of Government the action of the District Board, Shimoga District, in having sold the right of ferry between Thirthahalli and Kuruvalli in spite of the protests of Ambigars of the place etc., I am directed to forward in original, the petition dated 27-7-1935 presented by Mr.Malur Subba Rao, Advocate for the appellants- K.Seshagiri Das and others of Thirthahalli Town, on the subject and to request that a detailed report on the several points referred to therein may be forwarded to Government very early.

2. In the meanwhile I am to request that the ~~President of the~~ District Board may be asked to suspend their order for the plying of the boat through the contractor and to permit the boatmen (appellants) to ply according to mamool till the question is finally devided.The question whether the ferry is plying in Municipal area or District Board area has to be decided.

3. The petition and its enclosures may kindly returned along with your report.

I have the honour to be,
Sir,
Your most obedient servant,

For Secretary to Government,
Development Department.

TSS.

D. No. 13
3536

Confidential
Immediate.

22nd August 1935.

Despatched 22/8/35

Dear Sir,

I am desired to invite reference to this office letter No. L.1118 dated the 7th instant regarding the sale by the District Board of the right to ply a ferry between Tirthahalli and Kuruvalli and to request that your report called for on the petition received in this office may be sent very early. It is understood from the President, District Board that the contractors to whom the right has been sold are intending to issue a notice to the District Board as a result of the Stay Order issued in the case, and it is therefore necessary to pass final orders in the matter without delay.

Yours sincerely,

S. Narayana Rao, Esq., M. A.(Hons.).,
Deputy Commissioner, Shimoga District,
Shimoga.

LSG 26/8/35

No. C.334/L.B.34-35.

OFFICE OF THE PRESIDENT,
DISTRICT BOARD & LOCAL EDUCATION AUTHORITY,
SHIMOGA DISTRICT,

Dated the 21st August 1935

From

K. H. HALAPPA, Esq., B.A.,
PRESIDENT, DISTRICT BOARD &
LOCAL EDUCATION AUTHORITY, SHIMOGA.

To

M. Venkatanaranappa, Esq., B.A.,
Secretary to the Government of Mysore,
Development Department, Bangalore.

Through

The Deputy Commissioner,
Shimoga District,
Shimoga.

Sir,

With reference to your letter No.L.1118 dated 7th instant, addressed to the Deputy Commissioner, Shimoga District, issuing instructions for the suspension of this office order for the plying of boat at Kuruvalli-Ferry through the District Board Contractor for 1935-36, I have the honour to state that I have accordingly issued orders to the Contractor not to ply his boat until further orders from this office. In this connection, I wish to bring to your kind notice that the stay order issued has, not only put the Contractor to a great loss but has also kept him under suspense. He could neither disbandon his staff at the ferry, as his contract still remains in force, nor could he continue to keep the Establishment at the ferry as it would put him to further loss. Moreover no time limit is prescribed for the passing of final orders. It is but natural that the local Ambigars at Tirthahalli would certainly put off proving their title to the ferry on some grounds or other taking advantage of the stay order. Besides, the question of compensating the loss sustained and sustainable by the Contractor may also crop up. I request that the Government in consideration of all these points, may be pleased to issue a notice to the petitioners directing them to prove to the satisfaction of Government their title to the ferry within a specified time (say a month or so) failing which the final orders would be passed on the merit

of

of the case. In the absence of such a notice they are sure to prolong unnecessarily and consequently the loss sustanable by the Contractor would be more and more. I further request that the say of the District Board or the President of the District Board may kindly be obtained before final orders are passed on the report of enquiry on the petition of local Ambigars.

I have the honour to be,
Sir,
Your most obedient servant,

President,
District Board, Shimoga

DEPUTY COMMISSIONER'S OFFICE
M3.
21 AUG. 1935
SHIMOGA DISTRICT.

Gl. 2772
22-8-35.
M3 013. 30/35-36 Memo

Forwarded with compliments

21.8.35

S. Nanjappa
Deputy Commissioner
Shimoga DT

LR 53-35-3

No. Mg C 32-1/35-36
& 102 files

OFFICE OF THE DEPUTY COMMISSIONER
SHIMOGA DISTRICT.

Dated Shimoga, 2nd September, ...1935

REV. SECT.
1081/L.R.
5 SEPT 1935

FROM

S. NARAYANA RAO, ESQ., M.A., (Hons)
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

Deputy Commissioner,
Shimoga District.

To

M. Venkatanaranappa, Esq., B.A.,
Secretary to Government,
Development Department, Bangalore.

SIR,

With reference to your letter No: L.1118 dated 7th August 1935 calling for a report on the petition of K. Seshagiri Bas and others of Thirthahalli protesting against the sale of the right of ferry between Thirthahalli and Kuruvalli by the District Board, I have the honour to state that prior to the receipt of the above reference, an enquiry was caused to be made in the matter as already reported to Government in this Office letter No: M.3.C.32-1/35-36 dated 7th July 1935. The Amildar after enquiry reports that the Tunga river, where the ferry is being plied by the petitioners is running through the Municipal limits of Thirthahalli. Prior to the constitution of Thirthahalli town into a minor Municipality, the major pottion(of) of the town area was within the limits of Padavanahalli - an Inam village - belonging to Sri Rameswara Devaru temple. At the time of Inam Settlement the lands of Padavanahalli were treated as minor Inams in Thirthahalli. The river where the ferries in question are being plied is reported to be within the limits of Padavanahalli. The collection of Mohatarfa on the Inam portion of the town and its appartionment between the Municipality and the temple were in dispute for a long time and finally Government in their Order No: L.1482-6/ML.31-30-65 dated 28th August 1934 directed the purchase of the Inam portion of the town by the Municipality for Rs. 15,000/-. Action has been taken already in this connection. It may thus be seen that the portion of Tunga river where the boats are plied is within the Municipal limits. The road leading to the river on both sides of the banks are also being maintained by the Municipality. Under sec: 4 (1) of the District Boards Regulation, the District Boards have no jurisdiction within the Municipal limits. The President of the District Board, who was written to in the matter writes in his letter No: C.334/L.B. 34-35 dated 6th July 1935 (copy enclosed) that under Section 54 (2) of the

of the District Boards Regulation the plying of ferries is prohibited without a license from the District Board. This section does not seem to be applicable to the present case. Though the river is the property of Government according to the Sec: 36 of the Land Revenue Code, yet its management within Municipal areas seems to be governed by Section 46(b) of the Minor Municipal Regulation. Under section 46(1) of the Minor Municipal Regulation all properties specified in the section not specially reserved by Government shall be vested in and belong to the Municipal Council and it shall be under the direction, control and management of such Municipality. The portion of the river in question runs in the limits of the Municipality and the management of the area therefore belongs to the Local Municipality and not to the District Board. The action of the District Board in auctioning the ferry right does not therefore seem to be correct and the resolution passed by them deciding on licensing the ferry does not seem to be ~~in~~ in accordance with the Regulation.

As regards the petition of Seshagiri Dasa and others addressed to Government, the petitioners contend that they and their ancestors have been enjoying the privilege of plying the ferry in question for ever 200 years, that in consideration of their service they were granted Inam lands and that in addition to ferry service, they are also rendering service on Rathotsava and other special occasions in the Sri Rameswara temple. The Amildar reports that it is a fact that the petitioners and their ancestors have been enjoying the right from a long time, that some lands in Yemaravalli and Demalapura villages have been treated as service inam for artizan and Panchakaraka services, that these lands are not now in their possession having been alienated by them to others and that they eke out their livelihood by plying this ferry, collecting miras from the local people and small fees from outsiders. The petitioners have not produced the original title deed giving them the right of ferry in this particular place as an Inam, on the plea that they lost the same during the floods of 1924. The entries in the Quit Rent Register also do not make this point clear. In the absence of definite information, it is not possible to say whether the service inam lands of Yemaravalli and Demalapura were meant for maintaining a free ferry service between Thirthahalli and Kuruvalli,

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er for ether services to be rendered by the grantees. The Amildar reports that a reference to the Inam Settlement records may throw some light and he has made a reference to the Director of Land Records in this connection. The records of the Inam Office will have to be perused before anything definite can be said on this point. But however from the vernacular records relating to the enquiry by the temple authorities of Sri Rameswara Devaru of Thirthahalli stated to have held in September 1878, regarding the unsatisfactory condition of ferry service, it is clear that the ferry service has been in the hands of private persons like other artisan services for a long time in return for Inams enjoyed by them and free service rendered to the temple. This fact by itself does not seem to entitle them to claim the right of ferrying in question as a matter of course. The mere fact that fees are being levied at present by the Ambigars from some people at least renders the ferry a public one and as such requires to be controlled.

3 If in view of the circumstances, set forth in para 1 above, the District Board is held to have no jurisdiction to sell the right of ferrying in Thirthahalli, then it will be a question between the Municipality and the petitioners and I think the Municipal Council may be left to decide the question to the best interests of the Municipality, the temple and the town people in general as in a way the petitioners Ambigars have themselves conceded the right of the Municipality to controll the Ferry (Vide: para 7 of the petition addressed to Government).

4 The records ending with the Sub Division Officer's reports No: R.1.C.25/35-36 dated 25-7-1935 and 27th August 1935 are submitted herewith for reference. The petition addressed to Government is also resubmitted as desired.

I have the honour to be,
Sir,
Your most obedient servant,

DEPUTY COMMISSIONER,
SHIMOGA DISTRICT.

Letter No: C.334/L B.34-35 dated 6th July 1935 from the President, District Board, Shimoga to the Deputy Commissioner, Shimoga District.

- - - - - -

With reference to your letter No: M.3C.32-1/35-36 dated 4th instant re: the right of auction of Kuruvalli Ferry in Thirthahalli Taluk, I have the honour to state that the petition presented to you by the local Ambigars of Thirthahalli does not express real facts. The allegation No: 2 that the District Board has no power to sell the right of ferry cannot be relied upon as it is quite contrary to the provision in the District Board Regulation. It is expressly provided in Section 54(2) of the Regulation that no person shall continue to keep open any ferry as may have been established prior to the commencement of this Regulation (1926) unless he obtains from the District Board, a license in writing to do so. The allegations Nos: 3 to 7 in the petition that the petitioners have been enjoying the right of ferry from time immemorial etc., cannot at all be taken into consideration as the section clearly specifies that even such persons shall not continue to do so unless they obtain a license in writing from the District Board. They are bound to obtain the required license whatever right they may allege to possess from time immemorial. Thus the Ambigars cannot dispute the right of the District Board to the ferry in question.

Next comes the question of Municipality. The allegation of the Municipality is that the District Board cannot sell the right to ply on the ferry as the River flows between Kuruvalli and Thirthahalli both of which are within Thirthahalli Municipal limits. For this they depend upon Section 46(b) of the Municipal Regulation of Minor Municipalities - vide their resolution dated 29-6-1935. It can be said that this section is evidently not at all applicable to the levy of taxation. The river may lie in the Municipal limits but the Regulation nowhere provides that the Municipality can levy tax on ferry. In the absence of such provision in the Regulation the Municipality cannot claim the right to ply on the ferry which is the exclusive right of the District Board under the Regulation. This is not the first time that the District Board claims the right to ferry in Municipality limits. For instance, the right to ferry in the limits of Honnali Municipality was all along exercised by the District Board before the bridge was constructed. Thus it can be safely said that the claim put forward

by the Thirthahalli Municipality cannot legally stand as it is not supported by the Municipal Regulation.

As regards para 3 of the letter under reference, I may bring to your kind notice that the management of all ferries in the District has been entrusted to the District Board since the time of introduction of the Regulation. Section 54(2) clears this point. But the right to collect fees over the ferry in question was some how not taken up by the District Board. In order to stabilise the financial condition of the District Board and to find ways and means for improving the sources of revenue, a special Committee was appointed and on their suggestions, the subject ~~xxxxxxxx~~ of auctioning sub of the ferries as were unatherisedly plied by private persons, was discussed in the District Board meeting held on 1-4-1935 and a copy of resolution passed (viz., No: 103(b) (ii) is enclosed for kind perusal. Thus the Board has rightly and legally exercised their right.

As regards para 4, necessary instructions have been issued to the Sanitary Inspector, Thirthahalli, to see that the auction purchaser gets his boats certified by the Public Works Department as required by condition of the Bye-laws.

The sale has been properly conducted, the Contractor has duly executed the bond after depositing the required amount and has been autherised to ply his boats with effect from 1-7-1935. I wish to bring to your kind notice that the Contractor will surely be put to loss if the previous unautherised plying is continued to be allowed, and some one has to be held responsible for the loss. I regret to say that I cannot issue instructions to the sale purchaser not to ply his boat, which will be contrary to the resolution of the Board.

- - - - - - - - -

"Copy"

S. Muddappa

Deputy Commissioner.

Immediate.

No. ..... M3. C. 32.1/35-36

OFFICE OF THE DEPUTY COMMISSIONER,
SHIMOGA DISTRICT.

Dated Shimoga, ...8th..August..... .....193 5

FROM

S.Narayana Rao,Esq., M.A.,(Hons)
~~T.V.A.ISVARAN, Esq., B.A.,~~
Deputy Commissioner,
Shimoga District.

To

The President,

District Board, Shimoga District,

Shimoga.

SIR,

In forwarding herewith a copy of letter No. L. 1118 dated 7-8-1935 from the Secretary to Government, Development Department in the sale of the right of Ferry between Thirthahalli and Kuruvalli I have the honour to request you to kindly suspend your order for the plying of the boat through the contractor who has purchased the right in the sale held by the District Board as directed by Government till the question is decided.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/-. S.Narayana Rao,
Deputy Commissioner,
Shimoga District.

ASSISTANT COMMISSIONER, 797 9 AUG 1935 SHIMOGA SUB DIVISION.

Memo.

Copy is forwarded to the Sub Division Officer, Shimoga, for information. A copy of the letter from the Development Secretary and also the petition of Seshagiri Das and others are sent herewith He is requested to submit a detailed report on the several points raised in the petition for submission to Government. Pending final orders of Government the ambigars (petitioners) may be permitted to ply their boats according to mamool

for Deputy Commissioner,
Shimoga District.

29

Letter No.L.1118 dated 7th August 35 from the Development Secretary to Government, Bangalore to the Deputy Commissioner, Shimoga District.

With reference to your letter No.M3.C.32-1/35-36 dated the 7th July 35 bringing to the notice of Government the action of the District Board, Shimoga District, inhaving sold theright of ferry between Tirthahalli and Kuruvalli in spite of the protest of the Ambigars of the place etc., I am directed to forward, in original, the petition dated 27th July 35 presented by Mr. Malur Subba Rao Advocate for the appellants - K. Seshagiri Das and others of Tirthahalli Town on the subject and to request that a detailed report on the several points referred to therein may be forwarded to Government very early.

2. In the meanwhile, I am to request that the District Board may be asked to suspend their order for the plying of the boat through the contractor and to permit the boatmen (appellants) to ply according to mamool till the question is finally decided. The question whether the ferry is plying in Municipal area or Distric Board area has to be decided.

3. The petition and its enclosures may kindly returned along with your report.

--

"Copy"

for Deputy Commissioner,
Shimoga District.

ಕುಶಿನ ವಿಚಾರವು 34-35 ನೆಸಿಕಾಲದಲ್ಲಿ ಶಿಕಾರ್ಪುರ ತಾ ಲ್ಲ್ಯ ಕ್ಯಾಮ ಕ್ಷೇತ್ರದ ಶೀಂಪರಲು ಬಡಾವಣೆ ಸರ್ವೆ ನಂ 1 ರಲ್ಲಿ ಒಟ್ಟು ವಿಸ್ತೀರ್ಣ 4 ಎಕರೆ 20 ಗುಂಟೆ ಜಮೀನನ್ನು ಸಾರ್ವಜನಿಕ ಉಪಯೋಗಕ್ಕಾಗಿ ಕಾಯ್ದಿರಿಸಿ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಲಾಗಿದೆ. ಸದರಿ ಜಮೀನಿನಲ್ಲಿ ಸುಮಾರು 15000/- ಮೌಲ್ಯದ ಸುಮಾರು ಕಿರಿಕ್ಕೆರೆ ಕುಣಿಗಾಗಿ ಸದರಿ ಜಮೀನನ್ನು ಶಿಕ್ಷಣ ಇಲಾಖೆಯವರಿಗೆ ಮಂಜೂರು ಮಾಡಲು ಸಾಧ್ಯವಿಲ್ಲವೆಂದು ಸಹಾಯಕ ಕಮೀಷನರ್ ಸಾಗರ ಉಪವಿಭಾಗ ಇವರು ಅಭಿಪ್ರಾಯಪಟ್ಟಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ ಸದರಿ ಜಮೀನನ್ನು ಶಿಕ್ಷಣ ಇಲಾಖೆಗೆ ಮಂಜೂರು ಮಾಡಲು ಸಾಧ್ಯವಿಲ್ಲವೆಂದು ತಿಳಿಸಲಾಗಿದೆ. ಸದರಿ ಜಮೀನಿನಲ್ಲಿ

L88
7-7-35

No. M. D13 30/35-36
3 Enc. 2

OFFICE OF THE DEPUTY COMMISSIONER,
SHIMOGA DISTRICT.

Dated Shimoga, ...September 4... .....1935 .

31

FROM S. Narayana Rao, Esq., M.A. (Hons.)
~~H.V.A.S.RAO, Esq.~~,
Deputy Commissioner,
Shimoga District.

To

M. Venkatanaranappa, Esq., B.A.,
Secretary to Government,
Development Department,
Bangalore.

SIR,

In forwarding herewith the Shimoga District Board President's letter No.C.334/L.B.34-35 dated 3-9-35 together with its enclosure forwarding a copy of the Notice received at his office from Mr. B. Thejappa Setty, District Board Contractor for Kuruvalli Ferry, Tirthahalli Taluk asking for certain reliefs, I have the honour to state that a detailed report regarding the relative rights of the District Board, the Tirthahalli Municipal Council andthe Ambigars over this ferry has been submitted to Government in this office letter No.M3 C.32-1/35-36 dated 2/3-9-35.

The Contractor had been allowed by this office to ply after getting his boats duly certified as per conditions of the sale notification in pursuance of which the Ferry had been sold to him by the District Board and the bye-laws under which the sale notification was issued by the District Board (Vide para 5 of my letter No.M3.C.32-1/35-36 dated 7-7-35), but he had failed to do so till the stay order was issued in accordance with your letter No.L.1118/7-8-35.

I have the honour to be,
Sir,
Your most obedient servant,

S. Narayana Rao

Deputy Commissioner,
Shimoga District.

urgent

No. C.334/L.B.34-35.
Cont

OFFICE OF THE PRESIDENT,
DISTRICT BOARD & LOCAL EDUCATION AUTHORITY,
SHIMOGA DISTRICT.

Dated the 3rd September 193 5.

From

K. H. HALAPPA, Esq., B.A.,
PRESIDENT, DISTRICT BOARD &
LOCAL EDUCATION AUTHORITY, SHIMOGA.

To

M.Venktanaranappa, Esq., B.A.,
Secretary to the Government of Mysore,
Development Department, Bangalore.

Through

The Deputy Commissioner,
Shimoga District,
Shimoga.

Sir,

In continuation of this office letter No.C.334/L.B.34-35 dated dated 21st instant, re: the Kuruvalli Ferry, I have the honour to enclose herewith a copy of notice issued from the office of Mr. Narasimha Kamath, Advocate, Shimoga, on behalf of Mr. B. Thejappa Setty, Contractor for Kuruvalli Ferry for 1935-36 and to request that you will be so good as to obtain final orders of Government at an early date.

I have the honour to be,
Sir,
Your most obedient servant,

K H Halappa
President,
District Board, Shimoga.

DEPUTY COMMISSIONER'S OFFICE
4 SEPT. 19
SHIMOGA DISTRICT.

memo

GC 3349
4/9/35 forwarded with compliments

4/9/35 By Cornes

Letter dated 29th August 1935, from Mr. Narasimha Kamath, Advocate, Shimoga, to the President, District Board, Shimoga.

Under instructions from my client, Mr. B. Thejappa Setty, at present residing in Tirthahalli, I have to inform you as follows:-

My client was the highest and successful bidder at the auction of the Kuruvalli Ferry and the sale was confirmed in his name, according to the terms of sale, he had the exclusive right to ply boats, convey passengers etc., from 1-7-1935 to 30-6-1938.

On the very first day some other persons contested this exclusive ferry right, and on my clients complaining to you about the matter, you took prompt action and protected my client's rights on 3-7-1935.

On 4-7-1935, the Deputy Commissioner of Shimoga happened to be in Tirthahalli, and on representations being made to him by interested persons, he permitted other persons also to ply boats etc. on the ferry.

Meanwhile, my client was ordered to equip himself with good boats, which he accordingly did at great cost; and as ordered by you, he has also obtained a certificate from the Assistant Engineer of Tirthahalli as to their fit condition.

Finally on 16-8-1935 my client got an order from your office not to ply his boats, the reasons for the abovesaid order are not at all informed to him.

My client has been put to great loss and hardship by the acts narrated above; in spite of this, he gives you another final oppertunity to keep up to the terms of the contract. My client has paid the money required and has stricly observe whatever terms were imposed upon him and is also prepared to do any thing you order according to the terms of the sale. My client requests you to take the necessary steps and see that these is no further interference by any body to my client's exclusive rights of the ferry and to restore to him his full rights according to the terms of the sale,

sale, and he further requests that all this should be done by

the end of September 1935. Failing which, please take notice that a suit will be filed against you for the following reliefs:-

1. Recovery of Rs.230/- paid to you, with interest thereon at one per cent per month from the date of payment to date of recovery.

2. Recovery of Rs.180/- with interest thereon at the above-engaged by him for 2 months.

3. Rs.220/- being the cost incurred by him to equip himself with 2 boats.

4. Damages of Rs.150/- which my client sustained by being without any occupation, these 2 months.

5. Rs.600/- the profits which my client would have personally made for 3 years, the period for which he purchased the ferry rights.

6. Rs.5-0, the fee charged for this notice.

I may conclude by saying that my client is not eager about a litigation, but that he is more anxious to have his rights under the contract. I request that he may not be driven to the necessity of filing a suit, but if his request should not be complied with, certainly he will file a suit as detailed above.

"Copy"

President,
District Board, Shimoga.

LB 53-35—4

OFFICE OF THE PRESIDENT,
DISTRICT BOARD & LOCAL EDUCATION AUTHORITY
SHIMOGA DISTRICT.

No. C. 8/L. B. 35-36
Encl. one.

Dated the 12th November 1935

From

K. H. HALAPPA, Esq., B. A.,
PRESIDENT, DISTRICT BOARD &
LOCAL EDUCATION AUTHORITY, SHIMOGA.

To

M. Venkataranappa, Esq., B.A.,
Secretary to the Government of Mysore,
Development Department, Bangalore.

Through

The Deputy Commissioner,
Shimoga District,
Shimoga.

Sir,

In continuation of this office letter No. C. 334/L. B. 34-35 dated 31st August 1935, re: Kuruvalli Ferry, I have the honour to enclose herein for kind perusal a copy of a reply dated 10-8-1935 sent to the Contractor's Advocate in response to the notice issued by him on 29-8-1935. It is more than three months since the Ambigars of Kuruvalli put in their petition and I request that you will be so good as to obtain final orders of Government early, after hearing the say of the District Board on the report of enquiry made.

I have the honour to be,
Sir,
Your most obedient servant,

K.H. Halappa
for President,
District Board, Shimoga.

No. M 3 S 32 1/35-36

With compliments
Forwarded in Continuation of this office No. M 3 S 13. 30/35-36 dated 4th September 1935.

15. 11. 35.

Shimoga,
Dated 15/18th Oct., 1935.

From

H. Lingappa, Esq., B.A., LL.B.,
Advocate, Shimoga.

To

M. Narasimha Kamath, Esq., B.A., B.L.,
Advocate, Shimoga.

Sir,

Under instruction from my client, the President, District Board of Shimoga, I hereby reply to your notice dated 29-6-1935 on behalf of your client Mr. B. Thejappa Setty.

It is true that your client was the highest bidder at the auction of Kuruvalli Ferry and that he was permitted to ply boats etc., from 1-7-1935 to 30-6-1938.

It seems that K. Seshagiri Das and 3 others of Tirthahalli petitioned to the Government of His Highness the Maharaja of Mysore to set aside the sale of the right of Ferry in favour of your client and allow them to enjoy their alleged right of ferry at that place. My client has been doing his best to protect the rights of your client as a Contractor under the District Board but unfortunately the Government have in their Interim Order dated 7-8-1935 directed my client to suspend his order for the plying of boats etc., through the Contractor Thejappa Setty pending diposal of the petition filed by Seshagiri Das and others referred to above.

The working of the District Board is in some measure subjected to the control of the

Government

Government and as such, my client had to abide by the abovesaid Interim Order of the Government and communicate the same to your client. As a Contractor under the District Board, your client is likewise subjected to all orders of the Government and particularly the sale in his favour is similarly subjected to any final order that may be passed by the Government.

In the interest of your client my client has been requesting the Government to dispose off the petition of Seshagiri Das and others as early as possible protesting at the same time against their interference in the matter.

Under these circumstances, your client will have absolutely no cause of action against my client for any of the reliefs which you have mentioned in your notice, even if the Government were to set aside the sale altogether. Your client will be entitled only to the refund of the amount which he might have paid towards the sale price deducting, of course, the dues, if any.

On behalf of my client, I would request you to advise your client not to rush to a Court unnecessarily. If he does so, he will be liable for all costs that my client may have to incur in that behalf.

Sd/- H. LINGAPPA,
Advocate.

"Copy"

H.V. Halappa
President,
District Board, Shimoga.

Appendix F G—1]

SUBJECT..... 316

.....

.....

Section LB

File No. 53-35

Serial No. 5

Diary No. of letter replied to.....

No. L. 3741/Rs

To

The Deputy Commr
Shimoga Dist

General and Revenue Secretariat

( )

the *193* .

Sir,

With reference to the correspondence ending with your letter No Mg-C 32-1/35-36 dated the 2nd Septr 35 submitting a detailed report on the petition of K. Seshagiri Das and others of Nirthadalli protesting against the sale of the right of ferry across the river Thunga between

Date of issue.....20.11.35.....

Signed by .....MV A.S.R.....

List of enclosures.....

Copied by .....

Examined by.....

WD 03601—GPB—30,000—23-9-35

Thirthalli Municipality by
the Dist Board, I am
directed to state that the
records disclose that the ferry
service was being run prior to the promulgation of the
Mysore Dist Boards Act, 1926, the Dist
Board cannot claim the service,
as section 52(e) of the Act only prohibits the
running of the service without
a licence from the Dist Board
and that even if the rights of the
Amburgars are ignored, as section
50 of the Mysore Municipalities Act
vests the river in the Thirthalli Taluk
Municipality, it would be entitled to all
rights over it and not the
Dist Board In these above
circumstances, I am to add that Govt
are advised that the Dist Board
cannot appropriate to itself the
right to start and control the
ferry service or lease it out.
This fact may be kindly brought

it is the Thirthalli Mty & not the DB that would be entitled to all rights over the ferry

G. R. S. G/33]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation sheet draft form.*)

to the notice of the Distt Board 37

The record received with your letter under reply are herewith returned.

I have the

for Secy to Govt

WD 2230—GPB—1,00,000—23-7-20

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 19th November 1935

No.

From

The *Secretary to the Government of His Highness the Maharaja of Mysore, Development Department.*

To

The Deputy Commissioner,
Shimoga District.

Sir,

With reference to the correspondence ending with your letter No.M3.C.32-1/35-36 dated the 2nd September 1935 submitting a detailed report on the petition of K.Seshagiri Das and others of Thirthahalli protesting against the sale of the right of ferry ~~between~~ across the river Thunga between Thirthahalli and Kuruvalli by the District Board, I am directed to state that as the records disclose that the ferry service was being run by the Ambigars prior to the promulgation of the Mysore District Boards Regulation, 1926, the District Board cannot claim the service, as section 54(2) of the Regulation only forbids the running of the service without a license from the District Board. Even if the rights of the Ambigars are ignored, it is the Thirthahalli Municipality and not the District Board that would be entitled to all rights over the ferry, as section 50 of the Mysore Minor Municipalities Regulation vests the river in the said Municipality. In these circumstances, the District Board cannot appropriate to itself the right to start and control the ferry service in question or lease it out. This fact may be kindly brought to the notice of the District Board.

The records received with your letter under reply are herewith returned.

I have the honor to be
Sir,
Your most obedient servant

For Secretary to Government,
Development Department.

S.R.2

L. 3945 dt 28.11.35
LB 53-35

39

Endorsement granted to messrs K. Seshagiri Dasa, B. Venkataramana B. Seshu & Bovi Puttanna Boatmen & residents of Thothakatti Town (Thro Mr Madhva Subba Rao Advocate, Shimoga)

With reference to their petition dated the 27th July 1935 praying in the circs stated therein that the sale of the right of ferry across the river Tunga between Thothakatti and Kurevatti by the President of the Shimoga Distt Board be set aside etc, the petitioners are informed

that orders have been
issued to the effect that it is the intention
of the Dist Board Cannot
appropriate to itself the right
to start / reinstate the ferry
service in question or lease
it out.
The two enclosures
to the petition are herewith
returned

B.O

Mr. Secy to sign
24/4
for D.D

Memo No L. 3946
Copy sent to the D.C.
Shimoga Distt for information
in continuation of this office
letter No L 3741 / LR 53-31-4
dated the 20th April 31

B.O

Mr. Secy to sign
22/4
for D.D

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Bangalore, Dated, 26th November 1935.

~~D.O.No.~~ No.

Endorsement granted to Messrs.K. Seshagiri Dasa, B.Venkataramana, B.Sesha and Bovi Puttanna, Boatmen and residents of Thirthahalli Town (Through Mr.Malur Subba Rao, Advocate, Shimoga).

With reference to their petition dated the 27th July 1935 praying in the circumstances stated therein that the sale of the right of the ferry across the river Thunga between Thirthahalli and Kuritvalli by the President of the Shimoga District Board be set aside etc., the petitioners are informed that orders have been issued that the District Board can exercise no jurisdiction over this ferry.

The two enclosures to the petition are herewith returned.

By Order,

Sd. M.Venkatanaranappa,

Secretary to Government,
Development Department.

Memo No.

Dated, Bangalore, 26th November 1935.

Copy of the above is forwarded with compliments to the Deputy Commissioner, Shimoga District for information in continuation of this office letter No.L.3741/LB 53-35-4 dated the 20th November 1935.

By Order

for Secretary to Government,
Development Department.

Exhibit

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

No. L4257 / L353-35

Dated, Bangalore, 2nd December 1935

From

The *Secretary to the Government of His Highness the Maharaja of Mysore, Development Department.*

To

The President,
District Board, Shimoga District.

Sir,

With reference to the correspondence ending with your letter No.C.8/L.B.35-36 dated the 12/15th November 1935 re. Kuruvalli Ferry, I am directed to state that orders of Government have been communicated to the Deputy Commissioner, Shimoga District in this office letter No.L.3741/L.B.53-35-4 dated 20th November 1935.

I have the honour to be,
Sir,
Your most obedient servant,

For Secretary to Government,
Development Department.

mk.2

Appendix F G—1]

SUBJECT .....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat

( )

the *193*

Date of issue 6/12

Signed by ..... A.S. Rowe

List of enclosures .....

Copied by ..... 1'' 2/12/35

Examined by.....

Section LB

File No. 53-35

Serial No.

No. L 4257

To : The President, D.B.

Shimoga

Sir,

With refee to the
correcndg with yr
letter no C 8/LB 31-34
dated the 12/5 & my
G-3-5 re Kumsi
ferry, I am directed
to state that orders of Govt
have been communicated
to the D.C. Shimoga Dist
in this office letter no
L 37-41/LB 5-3-35-6
dated 20/11/35.

I have

WD 01956—GPB—22,500—12-6-34

W.M. 30/11
Fr Secy to Govt
Fm D.D